UNITED STATES DISTRICT COURT

for the

Eastern District of California

JAN 30 2012

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _______ DEPUTY CLERK

United States of America
v.
Neng YANG

Defendant(s)

Case No. 1:12 MJ 00018 SKO

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 29, 2012 in the county of Fresno in the Eastern District of California, the defendant(s) violated:

Code Section	*Offense Description*
Title 18, United States Code, Section, 2251 (a)	Sexual exploitation of children

This criminal complaint is based on these facts:

See Attached Affidavit.

☑ Continued on the attached sheet.

[signature]
Complainant's signature

Robert Benesiewicz, Special Agent
Printed name and title

Sworn to before me and signed in my presence.

Date: 01/29/2012

[signature]
Judge's signature

City and state: Fresno, California

Hon. Sheila K. Oberto, U.S. Magistrate Judge
Printed name and title

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

County of Fresno

Re: In Support of
Criminal Complaint

Neng YANG
Fresno, California 93721

AFFIDAVIT

I, Robert Benesiewicz, being duly sworn, hereby depose and state as follows:

1. I am a Special Agent with the United States Department of Homeland Security (DHS), Homeland Security Investigations (HSI), assigned to the Office of the Resident Agent in Charge (RAC) Fresno, California. I have been employed by DHS HSI since August of 2010. Prior to that, I worked for Immigration and Customs Enforcement (ICE) for over three years. I am a graduate of three Federal Law Enforcement Training Academies in Glynco, GA. I graduated from the Immigration and Customs Enforcement Deportation Basic Training Course (ICE-D) in 2007, the Criminal Investigators Training Program (CITP) in 2010, and the ICE Special Agent Training Academy (ICESAT) in 2011. I have received training in the area of immigration law and federal firearm statutes. Some of my duties as an HSI Special Agent include investigating criminal violations relating to child exploitation and child pornography including violations pertaining to the illegal production, distribution and receipt, and possession of child pornography, in violations of 18 U.S.C. §§ 2251 and 2252. I

have received training in the area of child pornography and child exploitation and as part of my duties have observed and reviewed numerous examples of child pornography and visual depictions of minors engaged in sexually explicit conduct (as defined in 18 U.S.C. § 2256) in all forms of media, including computer media.

2. This affidavit is made in support of a criminal complaint against Neng YANG for violating the following federal statute: 18 U.S.C. § 2251, which makes it a crime for anyone who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or affecting interstate or foreign commerce, or in any Territory or Possession of the United States, with the intent that such minor engage in, any sexually explicit conduct for the purpose of producing any visual depiction of such conduct.

3. The information contained in this affidavit is based upon my personal observations, training and experience, and where noted, information related to me by other law enforcement officers and/or agents.

4. On January 26, 2012, at approximately 1749 hours, the parent of the 7 year old confidential female victim (CV) called Clovis Police Department (PD) to report allegation of possible sexual abuse occurring to the CV while at her elementary school in Clovis at the hands of her teacher. Clovis PD made contact with the CV's biological mother. CV's mother stated, on January 26, 2012, she arrived at Freedom Elementary in the afternoon, about 45 minutes before her daughter finished her classes. CV's mother saw the CV's class was in the area doing physical education (PE) but she could not locate CV. Once CV arrived at her vehicle to go home CV's mother questioned the CV as

to why she was not in PE with the rest of her class. The CV stated her teacher Neng YANG kept her out of PE to play the lollipop game. CV's mother asked what this lollipop game was. The CV stated YANG locks the doors to the classroom with only him and the CV inside. He shuts off the lights and the blindfolds the CV. He then puts one of three different lollipops into the CV's mouth and the CV has to guess what flavor of lollipop is in her mouth. If she guesses right, YANG moves to the next flavor. If she guesses wrong, the CV continues to suck on the lollipop until she guesses right.

5. The CV said this has occurred several times and each time she is kept back from PE, recess, or lunch to play this game with YANG. Each time the lights are off in the classroom and YANG locks the doors. Each time the CV is blindfolded and can't see.

6. On the morning of January 27, 2012, a Multi-Disciplinary Interview Center (MDIC) interview was conducted with the CV who confirmed CV mother's statement. CV described in detail how the lollipop game is played with YANG; after the lights are off, doors to the classroom are locked and the blindfold is on, YANG has the CV sit on the edge of her chair and lean forward and slightly bent over. The CV said YANG then has her go like this, and the CV began to make a forward and backward motion. The CV said while this was occurring, YANG would only hold the lollipops but she was so close to him that she could feel his clothing on her face. Based on the action the CV described and demonstrated, it appears is having the CV complete the act or simulation of oral sex.

7. The CV stated while playing lollipop, the CV has heard YANG typing on or manipulating his phone. The CV

stated YANG carries a black phone in a clip on his belt and she knows YANG's phone has the ability to shoot digital pictures and video as she has seen him use his phone in this manner on prior occasions.

8. On January 26, 2012, Clovis PD detectives accessed YANG's classroom and found items described by the CV in the classroom where the CV said they would be. When YANG was contacted at the school by Detective Roberts, Clovis PD, he was found to be in possession of a black iPhone as described by the CV. That phone was secured in order to avoid the destruction of evidence. Detective Roberts also attempted to obtain an out of custody statement from YANG. YANG agreed to talk to Detective Roberts. When asked about the lollipop game or other games played with the CV when alone in his locked classroom he denied any of this occurred. YANG did say that he left his phone at home on January 26, 2012 when this last act occurred and it was not in his possession.

9. A Clovis Unified School District (CUSD) issued computer was found in YANG's classroom. This computer was issued and assigned to YANG. School administration gave the law enforcement consent to take and examine this CUSD owned computer. During a search of the computer Sgt. McFadden, Clovis PD, found approximately 75 images of adult bestiality which included the use of horses, dogs, and squirrels. In addition, Sgt. McFadden found images and search history of adult teen titled pornography. This computer was last accessed on January 25, 2012, at approximately 2200 hours, under Mr. YANG's user name.

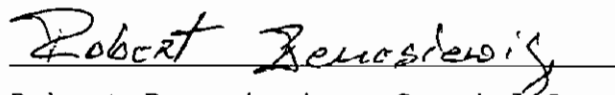
10. On January 27, 2012, at approximately 1530 hours, Clovis PD obtained a search warrant to search the cell phone of YANG that was seized by Detective Roberts. Clovis

PD detectives forensically viewed the contents of YANG's iPhone. YANG's phone contained several digital images of the CV blind folded inside what appears to be YANG's classroom. Those photos had date/time stamps attached to them as being taken on January 26, 2012, the day the CV was held back from PE to play the lollipop game with Yang. Also found were nine (9) videos on YANG's cell phone of the CV orally copulating YANG while the CV was wearing the same clothes and blindfold as seen in the digital images referenced above. YANG's face can't be seen in these videos or images however his voice is clearly heard and was recognized by Detective Roberts as belonging to YANG based on his previous interview on January 27, 2012. The location where the oral copulation occurred with the CV on January 26, 2012, appeared to be in YANG's classroom as seen by Detective Roberts and described by the CV. During the video of the oral copulation, YANG is wearing a brownish colored solid shirt with thin lines in a grid pattern and olive green or khaki colored pants. YANG's pants are on up to his waist with his zipper down. YANG's penis is hanging out of the zipper portion of his pants. The video shows the CV orally copulating YANG all the way down until her mouth touches his pants. The CV can be heard gagging while having YANG's penis in her mouth. You can hear YANG tell the victim to put it all the way in her mouth and to leave it in longer. When the CV takes YANG's penis out of her mouth, you can hear her say "chocolate." Prior to the CV putting YANG penis in her mouth, you can see YANG rubbing a lollipop or sucker on his penis.

11. On January 26, 2012, two other external hard drives were found in a black computer bag in YANG's classroom. Another search warrant was obtained to search

these hard drives. The drives contained at least 2 other sets of videos where the CV is blindfolded and orally copulating YANG. Those other video's were created on January, 3 2012 and January 12, 2012, and were also taken in YANG's classroom.

12. On January 28, 2012, Your Affiant responded to Clovis PD and inspected YANG's iPhone, Laptop, and external hard drives. The Apple iPhone, Model A1303, was assembled in China, Lenovo Laptop, Model ThinkPad T420I, Serial Number R8-M2LBW, utilized an internal Seagate hard drive, Serial number 5VGBHB85, manufactured in China. The external hard drive, Western Digital, Serial Number WXA1A50R3174M, was manufactured in Malaysia. All of the aforementioned items were manufactured or/and assembled outside of the United States, shipped to the United States, and directly affected interstate and foreign commerce.

13. In furtherance of this investigation, on the same date, Your Affiant viewed several videos found on YANG's iPhone and the aforementioned hard drives, all of which contained the CV orally copulating YANG on video. Based upon my training and experience, and after viewing of the videos, I believe that the files that were produced on YANG's iPhone constitute child pornography (as defined by Title 18 U.S.C. § Section 2256). As previously stated in this affidavit, it is evident that these images were produced in the Eastern District of California.

14. On January 28, 2012, at approximately 0500 hours, YANG was transported to the Fresno County Jail, where he was fingerprinted and booked.

15. On the basis of the aforementioned facts and circumstances described in this Affidavit, it is my contention that there is probable cause to believe that the

subject, Neng YANG, is in violation of Title 18, United States Code, Section 2251, which makes it a crime for anyone who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or affecting interstate or foreign commerce, or in any Territory or Possession of the United States, with the intent that such minor engage in, any sexually explicit conduct for the purpose of producing any visual depiction of such conduct.

16. Because this affidavit is written solely for the purpose of establishing probable cause for issuance of a criminal complaint, not every fact related to this investigation has been included herein.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Robert Benesiewicz

Robert Benesiewicz, Special Agent
U.S.Immigration and Customs Enforcement
Homeland Security Investigations

Sworn to before me, and subscribed in my presence,
This 29th day of January, 2012

Sheila K. Oberto

United States Magistrate Judge